THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.20884 of 1996

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Dated: 23.01.2006

Between:

M.S. Raju, S/o late Ramachandra Raju,

R/o Vizianagaram and others.

..... PETITIONERS

AND

1 The Executive Director, Vizianagaram Zone, APSRTC,

Vizianagaram and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.20884 of 1996

Order:

This writ petition is filed seeking a Writ of Mandamus declaring the seniority list dated 31.10.1988 published by respondent Nos.1 and 2 as illegal and arbitrary, and for consequential direction to respondent Nos.1 and 2 to put the petitioners as seniors to unofficial respondent Nos.3 to 8.

The case of the petitioners, in brief, is that they joined in service of the respondent-

Corporation on 05.01.1984 and on 04.01.1984 respectively, and that the unofficial respondent Nos.3
to 8, who joined the service on 06.01.1984, are juniors to them. The grievance of the petitioners is that the respondent-Corporation, without considering their objections and representations, published a final seniority list on 31.10.1988 showing them to be juniors to respondent Nos.3 to 8. Hence, the present writ petition.

The only argument advanced by the learned counsel for the petitioners is that since the petitioners joined in service on 05.01.1984 and 04.01.1984 respectively, they should be treated as seniors to respondent Nos.3 to 8, who joined in service on 06.01.1984

On the other hand, the learned Standing Counsel for respondent-Corporation submitted that the petitioners as well as respondent Nos.3 to 8 were recruited by way of direct recruitment on the same day, and their seniority was fixed based on the communal roster prepared by the Selection Committee. He further submits that the date of reporting to duty is not the criteria for reckoning the seniority, and the seniority of a person in service would be determined as per Clause 3 of the A.P.S.R.T.C., Employees (Service) Regulations, 1964 and as per the communal roster prepared by the Selection Committee. He further submits that respondent Nos.3 to 8 are seniors to the petitioners, and accordingly, respondent Nos.3 to 8 were shown as seniors to petitioners in the seniority list.

Heard the learned counsel for the petitioners and learned Standing Counsel for respondent-Corporation.

The petitioners are claiming seniority over the unofficial respondent Nos.3 to 8, against whom the writ petition was already dismissed for default as per the orders of this Court dated 14.02.2003, and the petitioners have not taken any steps to get the said order set aside. On that ground alone, the petitioners are not entitled to any relief in the writ petition. Be that as it may, a perusal of the record would show that the petitioners as well as respondent Nos.3 to 8 were selected on the very same day by way of direct recruitment and the Selection Committee prepared a communal roster, based on the performance in the selection, and as per the communal roster, petitioners were placed below respondent Nos.3 to 8. In the combined seniority list, prepared by Visakhapatnam Division, the names of respondent Nos.3 to 8 were shown at Serial Nos. 371 to 376 while the names of petitioners were shown at

Sl.Nos.389 to 393 and 395. Similarly, after bifurcation of Visakhapatnam Division, the names of respondent Nos.3 to 8 were shown at Sl. Nos.174 to 179 while the names of petitioners were shown at Sl. Nos. 180 to 185 in the seniority list. From the above, it is clear that the petitioners are juniors to respondent Nos.3 to 8.

Further, Clause 3 of the A.P.S.R.T.C., Employees (Service) Regulations, 1964, reads thus.

3. Seniority:

a. The "Seniority" of a person in service, class, category or grade shall unless he has been reduced to a lower rank as a punishment, be determined by the date of his first appointment to such service, class, category or grade. If any portion of the service of such person does not count towards probation his seniority shall be determined by the date of commencement of his service which counts towards probation.

b. The appointing authority may, at the time of passing an order appointing two or more persons simultaneously to a service fix the order of preference among them; and where such order has been fixed seniority shall be determined in accordance with it.

c. The transfer of a person from one category or grade of a service to another category or grade carrying the same pay or scale of pay shall not be treated as a first appointment to the later for purposes of seniority and the seniority of a person so transferred shall be determined with reference to the date of his first appointment to the category or grade from which he was transferred. Where any difficulty or doubt arises in applying this regulation, seniority shall be determined by the appointing authority.

d. Where a member of any service, class, category or grade, is reduced to a lower service class, category or grade, he shall be placed at the top of the later unless the authority ordering such reduction directs that he shall take rank in such lower service, class, category or grade next below any specified member thereof."

A bare reading of the above provisions clearly show that the appointing authority may, at the time of passing an order appointing two or more persons simultaneously to a service fix the order of preference among them; and where such order has been fixed seniority shall be determined in accordance with it, and the seniority of a person in service be determined by the date of his first appointment to such service. In the instant case also, the petitioners as well as respondent Nos.3 to

8 were selected on the very same day by way of direct recruitment and after preparing the communal roster by the selection committee, the seniority of the petitioners as well as respondent Nos.3 to 8 was fixed based on their performance in the said recruitment and as per the said communal roster, the petitioners were shown as juniors to respondent Nos.3 to 8, and no exception can be taken thereto.

In the circumstances, the writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 23.01.2006

Nsr/Ksr